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ATTORNEY FOR PLAINTIFF
UNITED STATES OF AMERICA

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
BILLINGS DIVISION

| | |
|----------------------------------|------------------------------|
| UNITED STATES OF AMERICA, | |
| Plaintiff, | CR-11-55-BLG-RFC |
| vs. | |
| HARVEY ALLEN HUGS, | <u>OFFER OF PROOF</u> |
| Defendant. | |

Plaintiff, United States of America, by and through its counsel of record, Mark S. Smith, Assistant United States Attorney for the District of Montana, hereby files its Offer of Proof.

THE CHARGE

The defendant in this case, Harvey Allen Hugs, is charged by Superseding Information with Aiding and Abetting in the Unlawfully Trafficking in Eagles (a misdemeanor) in violation of 18 U.S.C. § 2 and 16 U.S.C. § 668(a).

PLEA AGREEMENT

There is a plea agreement in this case. Pursuant to the plea agreement, Harvey Allen Hugs will enter a plea of guilty to the Superseding Information.

ELEMENTS OF THE CHARGE TO WHICH THE DEFENDANT WILL ENTER A PLEA

In order for the defendant to be found guilty of Aiding and Abetting in the Unlawfully Trafficking in Eagle (a misdemeanor) in violation of 18 U.S.C. § 2 and 16 U.S.C. § 668(a), the United States must prove each of the following elements beyond a reasonable doubt:

First, the defendant aided and abetted the offering for sale, or selling of;

Second, eagle parts, namely bald and golden eagle feathers, wings, and tails;

Third, without being permitted to do so;

Fourth, with wanton disregard for the consequences.

PENALTY

The defendant is subject to a maximum punishment of not more than one year imprisonment, and a \$5000 fine.

ANTICIPATED EVIDENCE

If this case were tried in United States District Court, the United States would prove the following:

On December 5, 2010, a confidential private informant saw Harvey Hugs at a convenience store in Hardin. They began talking, and the informant said he was in Hardin to do some trading in beadwork and eagles. Hugs said his brother might have some eagles for sale, and if he did, he would call the informant. Later that day, the informant got a call from "Harv's brother," saying he had birds for sale, and instructing the informant where to meet.

The informant was lead to a ranch about five miles south of Hardin. At the ranch, on December 5, 2010, the informant bought

multiple eagle feathers, eagle tails, and eagle wings from William Esley Hugs, Senior, and William Esley Hugs, Junior. The informant also met Marc Little Light, and arranged to buy dozens of eagle bones, and they completed that transaction the night of December 5, 2010.

On December 6, 2010, the informant returned to the ranch and bought two hawk tails from William Esley Hugs, Senior. While the informant was at the Hugs ranch on December 6, 2010, Harvey Hugs approached him and identified himself as the man that the informant had met at the convenience store in downtown Hardin, and that had arranged the meeting with Senior and Junior. The men discussed the deals that the informant had made with William Hugs Senior and Junior. Harvey said "Hooked you up pretty good. Now, you're going to have to give me about fifteen bucks, hookup fees." The informant agreed, and paid the "hookup fees."

DATED this 26th day of January, 2012.

MICHAEL W. COTTER
United States Attorney

/s/ Mark S. Smith
MARK S. SMITH
Assistant U.S. Attorney
Attorney for Plaintiff